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26 UNITED STATES DISTRICT COURT
27 NORTHERN DISTRICT OF CALIFORNIA

28 IN RE TEZOS SECURITIES LITIGATION

Master File No. 17-cv-06779-RS

CLASS ACTION

This document relates to:

ALL ACTIONS.

[PROPOSED] STIPULATED PROTECTIVE
ORDER

Judge: Hon. Richard Seeborg

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

2. DEFINITIONS

2.1 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.2 "CONFIDENTIAL" Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c) and that the Designating Party reasonably and in good faith believes fall within one or more of the following categories: (i) information or tangible things prohibited from disclosure by statute, rule, regulation, convention, code or law; (ii) information or tangible things that reveal trade secrets or other competitively sensitive information; (iii) confidential research and information of a technical, developmental, commercial, or financial nature (including but not limited to customer information); (iv) medical information concerning any individual; or (v) sensitive, non-public personal or customer information concerning individuals or entities, including but not limited to home telephone numbers and addresses.

2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well as their support staff).

2.4 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

2.5 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action, as well as the expert witness’s or consultant’s assistants, support staff, and agents.

2.7 House Counsel: attorneys who are employees of a party to this action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.8 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.9 Outside Counsel of Record: attorneys who are not employees of a party to this action but are retained to represent or advise a party to this action and have appeared in this action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

2.10 Party: any party to this action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this action.

2.12 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.13 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL.”

2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

1 3. SCOPE

2 The protections conferred by this Stipulation and Order cover not only Protected Material (as
3 defined above), but also (1) any information copied or extracted from Protected Material; (2) all
4 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
5 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
6 However, the protections conferred by this Stipulation and Order do not cover the following
7 information: (a) any information that is in the public domain at the time of disclosure to a Receiving
8 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of
9 publication not involving a violation of this Order, including becoming part of the public record
10 through trial or otherwise; and (b) any information known to the Receiving Party prior to the
11 disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the
12 information lawfully and under no obligation of confidentiality to the Designating Party. Any use of
13 Protected Material at trial shall be governed by a separate agreement or order.

14 4. DURATION

15 Even after final disposition of this litigation, the confidentiality obligations imposed by this
16 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
17 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
18 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion
19 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time
20 limits for filing any motions or applications for extension of time pursuant to applicable law.

21 5. DESIGNATING PROTECTED MATERIAL

22 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
23 Non-Party that designates information or items for protection under this Order must take care to limit
24 any such designation to specific material that qualifies under the appropriate standards. The
25 Designating Party must designate for protection only those parts of material, documents, items, or oral
26 or written communications that qualify – so that other portions of the material, documents, items, or
27 communications for which protection is not warranted are not swept unjustifiably within the ambit of
28 this Order.

1 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to
2 be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber
3 or retard the case development process or to impose unnecessary expenses and burdens on other
4 parties) expose the Designating Party to sanctions.

5 If it comes to a Designating Party's attention that information or items that it designated for
6 protection do not qualify for protection, that Designating Party must promptly notify all other Parties
7 that it is withdrawing the mistaken designation.

8
9 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see,
10 e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or
11 Discovery Material that qualifies for protection under this Order must be clearly so designated before
12 the material is disclosed or produced.

13 Designation in conformity with this Order requires:

14 (a) for information in documentary form (e.g., paper or electronic documents, but excluding
15 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the
16 legend "CONFIDENTIAL" to each page that contains protected material. If only a portion or portions
17 of the material on a page qualifies for protection, the Producing Party also must clearly identify the
18 protected portion(s) (e.g., by making appropriate markings in the margins).

19 A Party or Non-Party that makes original documents or materials available for inspection need
20 not designate them for protection until after the inspecting Party has indicated which material it would
21 like copied and produced. During the inspection and before the designation, all of the material made
22 available for inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has identified
23 the documents it wants copied and produced, the Producing Party must determine which documents,
24 or portions thereof, qualify for protection under this Order. Then, before producing the specified
25 documents, the Producing Party must affix the "CONFIDENTIAL" legend to each page that contains
26 Protected Material. If only a portion or portions of the material on a page qualifies for protection, the
27 Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate
28 markings in the margins). To the extent that affixing a confidentiality legend to a document is

1 impracticable because of the format in which it is produced (for instance, in the case of native Excel
2 files), the Producing Party may use another method of designating the document “CONFIDENTIAL”
3 that is reasonably calculated to alert a Receiving Party as to its confidential nature.

4 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
5 Designating Party identify on the record, before the close of the deposition, hearing, or other
6 proceeding, all protected testimony. Alternatively, counsel for the witness may make a confidentiality
7 designation within 14 days of receiving a final transcript of the testimony by identifying those specific
8 portions of the testimony as to which protection is sought. Prior to the lapse of that 14-day period, the
9 entire transcript will be treated as “CONFIDENTIAL,” unless otherwise agreed by all Parties in
10 writing. After the expiration of that period, the transcript shall be treated only as actually designated,
11 either on the record or within the 14-day period following receipt of the final transcript.

12 Parties shall give the other parties notice if they reasonably expect a deposition,
13 hearing or other proceeding to include Protected Material so that the other parties can ensure that
14 only authorized individuals are present at those proceedings. The use of a document as an exhibit at
15 a deposition shall not in any way affect its designation as “CONFIDENTIAL.”

16 (c) for information produced in some form other than documentary and for
17 any other tangible items, that the Producing Party affix in a prominent place on the exterior of the
18 container or containers in which the information or item is stored the legend “CONFIDENTIAL.” If
19 only a portion or portions of the information or item warrant protection, the Producing Party, to the
20 extent practicable, shall identify the protected portion(s).

21 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
22 designate qualified information or items does not, standing alone, waive the Designating Party’s right
23 to secure protection under this Order for such material. Upon timely correction of a designation, the
24 Receiving Party must make reasonable efforts to assure that the material is treated in accordance with
25 the provisions of this Order.
26
27
28

1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
3 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
4 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,
5 or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a
6 confidentiality designation by electing not to mount a challenge promptly after the original
7 designation is disclosed.

8 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
9 by providing written notice of each designation it is challenging and describing the basis for each
10 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
11 recite that the challenge to confidentiality is being made in accordance with this specific paragraph of
12 the Protective Order. The parties shall attempt to resolve each challenge in good faith and must begin
13 the process by conferring directly (in voice to voice dialogue; other forms of communication are not
14 sufficient) within 14 days of the date of service of notice. In conferring, the Challenging Party must
15 explain the basis for its belief that the confidentiality designation was not proper and must give the
16 Designating Party an opportunity to review the designated material, to reconsider the circumstances,
17 and, if no change in designation is offered, to explain the basis for the chosen designation. A
18 Challenging Party may proceed to the next stage of the challenge process only if it has engaged in this
19 meet and confer process first or establishes that the Designating Party is unwilling to participate in the
20 meet and confer process in a timely manner.

21 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
22 intervention, the Challenging Party shall file and serve an administrative motion challenging a
23 confidentiality designation under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if
24 applicable) within 21 days of the initial notice of challenge or within 14 days of the parties agreeing
25 that the meet and confer process will not resolve their dispute, whichever is earlier. Each such motion
26 must be accompanied by a competent declaration affirming that the movant has complied with the
27 meet and confer requirements imposed in the preceding paragraph. All parties shall continue to afford
28

1 the material in question the level of protection to which it is entitled under the Producing Party's
2 designation until the court rules on the challenge.

3 The burden of persuasion in any such challenge proceeding shall be on the Designating Party.
4 Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary
5 expenses and burdens on other parties) may expose the Challenging Party to sanctions.

6 7. ACCESS TO AND USE OF PROTECTED MATERIAL

7 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
8 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
9 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the
10 categories of persons and under the conditions described in this Order. When the litigation has been
11 terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
12 DISPOSITION).

13 Protected Material must be stored and maintained by a Receiving Party at a location and in a
14 secure manner that ensures that access is limited to the persons authorized under this Order.

15 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by
16 the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
17 information or item designated "CONFIDENTIAL" only to:

18 (a) the Receiving Party's Outside Counsel of Record in this action, as well as
19 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
20 information for this litigation;

21 (b) the officers, directors, and employees (including House Counsel) of the Receiving
22 Party to whom disclosure is reasonably necessary for this litigation;

23 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
24 reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to
25 Be Bound" (Exhibit A);

26 (d) the court and its personnel;

27 (e) court reporters and their staff, and Professional Vendors to whom disclosure is
28 reasonably necessary for this litigation;

1 (f) professional jury or trial consultants and mock jurors to whom disclosure is
 2 reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to
 3 Be Bound” (Exhibit A);

4 (g) during their depositions, witnesses in the action to whom disclosure is reasonably
 5 necessary;

6 (h) the author or recipient of a document containing the information or a custodian or
 7 other person who otherwise possessed or knew the information.

8 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
 9 LITIGATION

10 If a Party is served with a subpoena or a court order issued in other litigation that compels
 11 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party
 12 must:

13 (a) promptly notify in writing the Designating Party. Such notification shall include a
 14 copy of the subpoena or court order;

15 (b) promptly notify in writing the party who caused the subpoena or order to issue in
 16 the other litigation that some or all of the material covered by the subpoena or order is subject to this
 17 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

18 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
 19 Designating Party whose Protected Material may be affected.

20
 21 If the Designating Party timely seeks a protective order, the Party served with the subpoena or
 22 court order shall not produce any information designated in this action as “CONFIDENTIAL” before
 23 a determination by the court from which the subpoena or order issued, unless the Party has obtained
 24 the Designating Party’s permission. The Designating Party shall bear the burden and expense of
 25 seeking protection in that court of its confidential material – and nothing in these provisions should be
 26 construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive
 27 from another court.
 28

1 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
 2 LITIGATION

3 (a) The terms of this Order are applicable to information produced by a Non-Party in
 4 this action and designated as "CONFIDENTIAL." Such information produced by Non-Parties in
 5 connection with this litigation is protected by the remedies and relief provided by this Order.
 6 Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional
 7 protections.

8 (b) In the event that a Party is required, by a valid discovery request, to produce a
 9 Non-Party's confidential information in its possession, and the Party is subject to an agreement with
 10 the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

11 (1) promptly notify in writing the Requesting Party and the Non-Party that some
 12 or all of the information requested is subject to a confidentiality agreement with a Non-Party;

13 (2) promptly provide the Non-Party with a copy of the Stipulated Protective
 14 Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the
 15 information requested; and

16 (3) make the information requested available for inspection by the Non-Party.

17
 18 (c) If the Non-Party fails to object or seek a protective order from this court within 14
 19 days of receiving the notice and accompanying information, the Receiving Party may produce the
 20 Non-Party's confidential information responsive to the discovery request. If the Non-Party timely
 21 seeks a protective order, the Receiving Party shall not produce any information in its possession or
 22 control that is subject to the confidentiality agreement with the Non-Party before a determination by
 23 the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of
 24 seeking protection in this court of its Protected Material.

25 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

26 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
 27 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,
 28 the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized

disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

11.1 Pursuant to Fed. R. Evid. 502(b), (d) and (e), the inadvertent production of information that is privileged or otherwise protected will not operate as a waiver of privilege or work-product protection in this proceeding or in any other federal or state proceeding. When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review.

11.2 To the extent that a Receiving Party believes that a Producing Party has inadvertently produced material that is subject to a claim of privilege or other protection, the Receiving Party shall promptly notify the Producing Party of that fact, including without limitation the specific documents believed to contain such material.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. Without written permission from the Designating Party or a court order secured after appropriate notice to all interested persons, a Party may not file in the public record in this action any Protected Material. A Party that seeks to file under seal any Protected

Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing that the Protected Material at issue is privileged, protectable as a trade secret, or otherwise entitled to protection under the law. If a Receiving Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-5(d) is denied by the court, then the Receiving Party may file the information in the public record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed by the court.

13. FINAL DISPOSITION

Within 60 days after the final disposition of this action, as defined in paragraph 4, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that it has complied with this Section. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

Date: October 17 2018

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10 Attorneys for Defendant Dynamic Ledger
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12
13 PURSUANT TO STIPULATION, IT IS SO ORDERED.

14 DATED: _____

15 United States District Judge/Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on [date] in the case of *In Re Tezos Securities Litigation*, Master File No. 17-cv-06779-RS, United States District Court, Northern District of California. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____